

REMARKS

Status of Claims

Claims 3, 4, 6, 7, 13-15, 17, 20, 25, 27-35, 37-39, 41-44, 46-70, 72, 74-76, 78, 80 and 81 are cancelled herein without prejudice or disclaimer. Thus, following the entry of the foregoing claim amendments, claims 1, 2, 5, 8-12, 16, 18, 19, 21-24, 26, 36, 40, and 45 will be currently pending. Claims 71, 73, 77, 79, 82 and 83 are withdrawn from consideration in view of the Examiner's restriction requirement. Accordingly, no new matter has been added. Applicants reserve the right to pursue the nonelected subject matter in continuation and/or divisional applications.

Restriction Requirement

In the Office Action, the Examiner requires that the claims be restricted to one of the following three groups:

Group I: Claims 1-70, drawn to a cosmetic composition comprising at least one first and amorphous film-forming polymer;

Group II: Claims 71-72, 77-78 and 82-82, drawn to a non-therapeutic process for making up or caring for keratin materials or a process for coating keratin fibers comprising at least one first compound and amorphous film-forming polymer; and

Group III: Claims 73-76 and 79-81, drawn to a non-therapeutic cosmetic process for making up or caring for keratin materials comprising amorphous film-forming polymer.

See October 10, 2007 Office Action at 2.

Applicants elect the subject matter of Group I, claims 1, 2, 5, 8-12, 16, 18, 19, 21-24, 26, 36, 40, and 45.

Election of Species Requirements

The Examiner additionally requires election of a single species of at least one first compound from one of the following:

- A. waxes,
- B. semi-crystalline polymers, and
- C. oils thickened with a structuring agent.

See *id.* at 2. According to the Examiner, claims 1-10 and 18-83 are generic to "at least one first compound." See *id.*

Applicants elect the single species of semicrystalline polymers and polystearyl acrylate as the one first compound.

Further, the Examiner requires election of a single species of amorphous film-forming polymer. See *id.* at 5.

Applicants elect sulphopolyester as the amorphous film-forming polymer.

The Examiner asks for a listing of all claims "readable" on the election of species. *Id.* Applicants note that at least claims 1, 2, 5, 8-12, 16, 18, 19, 21-24, 26, 36, 40, and 45 are readable thereon.

If the Examiner chooses to maintain the election of species requirement, Applicants expect the Examiner, if the elected species is found allowable, to continue to examine the full scope of the pending claims to the extent necessary to determine the patentability of these pending claims, i.e., extending the search to a reasonable number

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of the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

In view of the foregoing amendments and remarks, Applicants respectfully request the examination of this application, and the timely allowance of the pending claims.

If the Examiner believes a telephone conference could be useful in resolving any of the outstanding issues, she is respectfully urged to contact Applicants' undersigned counsel at 202-408-4368.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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By:


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Dated: December 10, 2007

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